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Quid Novi

Vol. XII, No.13 | McGILL UNIVERSITY FACULTY OF LAW / UNIVERSITE McGILL FACULTE DE DROIT | January 28, 1992 / le 28 janvier, 1992

RAPE AND BILL C-54

By David Abitbol, BCL II

One in four women will be raped in her lifetime, experts say. Last year, over a hundred thousands rapes were reported in the United States, and as many as ten times that amount may have actually taken place and not been reported. Every seventeen minutes, a sexual assault takes place in Canada and 90% of the victims are female.

Furthermore, most of these women will in all likelihood know their attacker. Acquaintance rape, where the attacker and victim know each other, even slightly, is the most common form of rape in North America, accounting for four out of five rapes. Date rape, when the victim and the attacker have agreed to spend time together, accounts for nearly half of all rapes. The traditional notion that rape only really involves an attack by a stranger and that everything else is somewhat less serious, is clearly false. Rape occurs whenever a person is forced to have non-consensual sexual intercourse, regardless of who is doing the forcing.

These facts and numbers are staggering. If one were to view them in a human context, it is probable that many of the women we meet on a daily basis, friends, fellow students, lovers etc. were either once victimized by date rape, or are likely to suffer that fate in the future.

At McGill there have been two will publicized allegations of date or Acquaintance rape in the past three and a half years. Both women involved took their alleged attackers to court and both lost. In September of 1988, three members of the Zeta Psi Fraternity were charged with sexual assault as a result of an alleged gang rape incident at their Frat house. They were all later acquitted.

This past January, Patrick Booth, a McGill student, was charged with rape. The complainant claimed that she was attacked in the bathroom of a McGill Frat the year before. The accused admitted that the complainant's assertion that she kept saying that she had a boyfriend was true. The complainant further testified that she was crying and that she had explicitly told the accused to stop. Booth was nonetheless acquitted after Quebec Court Judge Luc Trudel decided that there

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A Modest Proposal

by Randy Hahn, LLB I

The British writer C.P. Snow once suggested that arguments amongst academics can be particularly nasty because so little is at stake. An unpleasant dispute between two McGill law professors has been publicized recently, and contrary to Lord Snow's generalization about conflicts in the scholarly world, much is at stake.

«Army could halt secession» read a recent front-page headline in The Gazette over a report on the views of Professor Stephen Scott. The following day, The Gazette editorial applauded Professor Scott's skill and determination in explaining certain «blunt truths» to Québec MNAs.

The following week, a sharp riposte was offered by Professor Jeremy Webber, who wrote in The Gazette that Professor Scott's opinion «makes assertions of law that are highly disputable». Professor Webber went on to question the credibility of Professor Scott as a defender of

Cont"d on p.5

IN THIS ISSUE
DANS CE NUMÉRO

ANNOUNCEMENTS / ANNONCES

ATTENTION TO ALL MUSICIANS AND SINGERS - We need musicians and singers for the 1992 SKIT NITE BAND ! Come out and let your talent shine! A jam session will be held on Tuesday, January 28 at 7:30 pm in the student lounge, in the basement of Old Chancellor Day Hall. Musicians for the band will be chosen from those who show up and strut their stuff. We need you to make the show a success! For more information contact Brian Gelfard c/o Skit Nite Box, LSA. See you at the jam.

THE SKIT NITE COMMITTEE - is looking for male and female dancers to take part in a choreography. For more details, please contact Veronica at 843-4747.

DEPARTMENT OF JUSTICE CANADA SCHOLARSHIP FOR ABORIGINAL STUDENTS - Each year the Department of Justice offers scholarships for pre-law studies and three-year scholarships for legal studies for Metis and non-status Indian students who wish to attend law school. The pre-law scholarships cover the cost of attending an English summer orientation programme offered by the Native Law Centre at the University of Saskatchewan or a French pre-law orientation programme at the University of Ottawa. In September, 10 or more tree-year law school scholarships will be made available to Metis and non-status applicants to defray living costs, textbooks, tuition fees, and incidental expenses. For more information, please contact the Programm Assistant, Legal Studies for Aboriginal People Programm, Department of Justice Canada, Ottawa, Ontario K1A 0H8. Applications for the pre-law programme must be received by April 1, 1992 and applications for the law school scholarships by June 1, 1992.

PHILIP F. VINEBERG TRAVELLING FELLOWSHIP - Established in 1988 in memory of Philip F. Vineberg, O.C., Q.C., B.A., M.A., B.C.L., LL.D., the Travelling Fellowship is awarded to a student leaving McGill to study at another university for a post-graduate degree. The Fellowship will be awarded to a student who «best exemplifies the qualities of intelligence as demonstrated by academic record and creative thinking; breadth of interest, perspective and tolerance as demonstrated by cross-cultural interest, desire to travel and record of service to others; excellence as demonstrated by a record discipline achievement and a promise of more to come.» The Fellowship is worth $9000 and is awarded through the Office of Fellowship Exchanges. Letters of application should be forwarded to that Office, Dawson Hall, Room 408, by April 1, 1992. For more information contact Professor Stephen Toope.

CANADA MEMORIAL SCHOLARSHIPS - These scholarships are offered to students from Canada and Britain who wish to undertake graduate study or research for one year in each others' country. Scholarships are awarded in memory of 900,000 Canadians who served with Great BRitain during the First and Second World Wars. McGill is permitted to nominate two students. A Selction Committee composed of four Faculty members will rank McGill's application and select the two nominees for submission to the Canada Memorial Foundation. Completed application forms, along with supporting documents, must be received at the Office of Fellowship and Exchanges by February 3, 1992. For more information contact Kim Bartlett at 398-3995.

CZECHOSLOVAKIA 1992 - The Law Faculty of Charles University in Prague has created a special summer law school programme for students who wish to study in English in Czechoslovakia. The programme will consist of a series of lectures on the legal, political, and economic developments in Czechoslovakia. The primary focus will be Czechoslovakia's transition from a socialist, centrally-managed society to one based on a free market economy. The dates for the summer law programme are from August 24, 1992 to September 12, 1992 and the deadline for application is February 29, 1992. Fees will be $600 US to be paid no later than 30 April 1992. For further information contact:
Czechoslovakia 1992, c/o Professor Vojtech Cepl, Vice-Dean, Pravnicka Fakulta univerzity Karlovy, Nam. Curieovych 7, 116 40 Praha 1, Czechoslovakia.

FONDATION JEAN-CHARLES-BONENFANT - La Fondation Jean-Charles Bonenfant lance son concours de recrutement annuel pour le choix de quatre boursiers (ières) qui effectueront un stage à l'Assemblée nationale, de septembre 1992 à juin 1993. Au cours du stage, chacun(e) des quatre boursiers(ières) sera affecté(e) auprès d'un député(e). Il ou elle participera notamment à des rencontres avec les responsables des différentes directions de l'Assemblée nationale et aura l'occasion de se familiariser avec le fonctionnement de l'Assemblée nationale et des commissions parlementaires. Pour des renseignements, contactez le Professeur Stephen Toope ou la Fondation Jean-Charles-Bonenfant, a/s Monsieur Richard Breton, Édifice Honoré-Mercier, 1025m, rue St-Augustin, bureau 1.68, Québec, Québec G1A 1A3.

NATIONAL CONSTRUCTION LAW ESSAY COMPETITION - The National Construction Law Section of the Canadian Bar Association is sponsoring an essay competition on any topic concerning construction law in Canada. The competition is open to all law students at any recognized law school in Canada. Papers may be submitted in either English or French, and must be received no later than June 30, 1992. The paper should consist of a minimum of 2,500 words and should be submitted on 8-1/2" x 11" paper, typed-written and double-spaced. All entries should be submitted to W. Donald Goodfellow, Q.C., barrister and Solicitor, National Chairman, National Construction Law Section of the Canadian Bar Association, 1660 Aquitaine Tower, 540-5th Avenue S.W., Calgary, Alberta T2P 0M2. Prizes for the competition will take the form of book credits. All papers submitted will be considered for publication in Construction Law Reports.

APARTMENT FOR RENT - Large sunny 3 1/2 with balcony in a quiet, medium-sized (5 stories) building - Wood floors recently re-polished - Very clean and safe building with charming details - Underground parking is available for a supplement - Villa Maria metro is less than a 5 minute walk away - Bus stop across the street - Heating and hot water included: $475,00 per month (available April 1, 1992). For more information contact: Julia Hanigsberg, 398-6666, ext. 5372 (afternoons) or 481-9259 (evenings).

FREE LEGAL DATABASES - The Law Library is able to offer limited free access to McGill Law School faculty and students who attend a CAN/LAW training session. CAN/LAW is a major Canadian database vendor which provides electronic access to the following: All Canadian Weekly Summaries (1977-); Canadian Criminal Cases (headnotes 1977-86; full text 1987-); Canadian Labour Arbitration Summaries (1986-); Canadian Patent Reporter (1977-); Dominion Law Reports (headnotes 1955-1986; full text 1987-); Labour Arbitration Cases (headnotes 1987-); Weekly Criminal Bulletin (1977-); Western Legal Publications; Supreme Court of Canada judgements; FirstCite case history service. Please contact Tracey Carmichael at the Law Library (398-4712) by January 31st if you are interested in attending a CAN/LAW training seminar to be held in February.

LEGAL THEORY WORKSHOP - On Friday, January 24th at 12h00 in room 202, Prof. Reuven Brenner (McGill Management) will discuss the topic of «From Envy to Distrust». All are welcome.

COIN DES SPORTS CORNER - The Public Offenders suffered a 5-0 defeat last Sunday. Injured goallie Veronica M. wound up coaching an excellent performance in nets by Corrie S. The team now has a back-up goaltender! The girls are a litle rusty but are all set for the law games!

SPECIAL SPORTS BULLETIN

Mallum in se v. Public Offenders:

The countdown has begun!!! Sunday, Feb. 2nd at 6:30.

Don't miss it!

Bill C-54
Cont'd from p.1

were serious discrepancies in the complainant's testimony because she was drunk at the time.

Furthermore, these issues have been very visible in the media lately. On the 11th of December, 1991, William Kennedy Smith was found not guilty of rape in Palm Beach, Florida in one of the most publicized rape trials in recent memory. On the 13th of December, 1991, Robert Van Oostrom, a Queen's University student, was acquitted in a campus date-rape trial on charges of sexually assaulting three women. Van Oostrom claimed that he received the complainants' consent in each case. Justice Alan Campbell, in acquitting the defendant, said "There is reasonable doubt on the matter of consent... It is up to the Crown to prove that consent did not exist."

On December 12, 1991, Federal Justice Minister Kim Campbell introduced Bill C-54, legislation that proposes, in part, to redefine sexual consent. Bill C-54 was introduced as a result of the decision in R. v Seaboyer, [1991] 83 D.L.R. 4th (S.C.C.), where the Supreme Court of Canada, in a 7-2 majority decision struck down the eight year old «rape-shield» law. The consent provisions in the legislation were borne out of a greater awareness of the issues and difficulties regarding Acquaintance and Date Rape. Bill C-54 includes a provision that there can be no consent if the complainant expresses lack of agreement through words or actions, or is «incapable of consenting to the activity by reason of intoxication or other condition.»

This proposal would restrict the circumstances in which a man, for example, could claim an honest, though misstaken belief that a victim had consented to sex. Consent would be defined for the first time in Canadian law as the «voluntary agreement of the complainant to engage in the sexual activity in question.» Thus a man could not use his honest belief that consent had been obtained under certain circumstances as a defense to a charge of sexual assualt if, for instance, the victim was drunk, if the supposed consent was given by a third party rather than by the victim personally, or if the victim expressed disagreement with the sex act «by words or conduct.» The accused would have had to have taken «reasonable steps to ascertain» that the person has consented.

Bill C-54 represents a positive move away from traditional methods used by the law to deal with the whole issue of rape in general and Acquaintance and Date Rape in particular. The law and practice relating to the prosecution of sexual conduct and female sexuality. Early rape law considered sexual assault to be a crime against the woman's father, thus equating women with personal chattel. Moreover, the bias of the law, benefitting the accused of such crimes, rather tha the female complainant. Consequently, such lawmakers were inordinately concerned with the possibility of false charges against innocent suspects, and that this fear has not been prevalent with regards to other kind of offenses. These concerns led to a number of legal rules which provided specialized treatment for those accused of sexual offenses not enjoyed by those accused of other offenses. Examples of this include the old corroboration rule and the requirement that a female victim of sexual assault raise a «hue and cry.»

At common law, courts were required to warn jurors and to direct themselves, of the dangers of convicting an accused upon the uncorroborated evidence the victim of sexual assault. This requirement was abolished by statute (See s. 274 of the Criminal Code, R.S.C. 1985, c. C-46).

There was also once a rule wherby a complainant was required to make a «hue and cry» at the first available opportunity, or a rape prosecution could not proceed. This represented an exception to the rule against previous consistent statements and it allowed a complainant to bolster her credibility, but the absence of such a «hue and cry» could be considered as evidence against her. The anachronistic nature of this rule was criticized in Timm v. The Queen, [1981] 2 S.C.R. 315. For these reasons it was also removed by statute (See s. 275 of the Criminal Code, R.S. C. 1985, c. C-46).

Bill C-54, though, is not immune to criticism. The proposed law seems to place the onus of responsibility on the accused to prove his innocence, rather than on the crown to prove his guilt; the accused «must take reasonable steps to ascertain» that the person has consented. In this sense an uncertain jury is supposed to return a guilty rather than non guilty verdict. The accused can thus be said to be guilty until proven innocent.

Furthermore, if the alleged victim is «incapable of consenting to the activity by reason of intoxication,» the act of sexual intercourse is construed to rape. Yet if the alleged attacker is intoxicated, he is fully accountable for his actions. Thus the attacker is responsible for his own drunkenness and his partner's, while the complainant is responsible for neither.

We can see the emergence of potential Charter problems resulting from the implementation of the consent provisions of bill C-54. The accused has the right to be found innocent unless proven guilty under section 7 of the Charter and section 11(d) guarantees the right to a fair trial. The consent provisions in bill C-54 might be found, under certain circumstances, to violate sections 7 and 11(d), as these sections (as well as all the other sections in the Charter) are to be given a large and liberal interpretation and application as per R. v. Big M Drug Mart Ltd, [1985] 1 S.C. R. 295 at 344.

A section 1 justification requires that the purpose behind legislation, which, on its face, contravenes the Charter must be pressing and substantial and that the means taken to accomplish that purpose are proportional. A determination of proportionality involves the assessment of whether the means taken to effect the purpose sought, constitute a rational way of doing so, a decision regarding the possibility of whether of not less intrusive means are available, and considerations of whether the detrimental effect that the legislative scheme has on the constitutional interest is too substantial to tolerate (R. v. Oakes, [1986] 1 S.C.R. 295 at 138-39).

It will ultimately have to be decided whether or not the potential difficulties faced by an accused in such a case are not as insurmountable or as pressing as the difficulties faced by women who have been victimized by sexual assault at the hands of someone they know. The ability of bill C-54's consent provision to withstand a Charter challenge thus remain to be seen. What is known is that bill C-54 represents a much overdue effort to directly address the difficult legal problems related to the successful prosection and prevention of crimes involving Date and Acquaintance Rape.

A Modest Proposal
Cont'd from p.1

aboriginal rights. «There is something unseemly», wrote Professor Webber «in the late conversion of people like Scott to the aboriginal cause.»

Oh dear, what is a first year student trying to get through constitutional law to make of all this? Whose view is correct? Perhaps one day I shall confront an examination question on this matter and so it would be helpful to know what the right answer is. Or perhaps I shall be at a job interview where the interviewer will say «I see you were at McGill when Stephen Scott and Jeremy Webber were battling it out; tell me, who was correct?». In the interests of enhancing exam and job interview results, I think a consensus should be reached as to what exactly the right answer is. But how is this to be accomplished?

Professors Scott and Webber's colleagues might be asked to decide the matter. But this probably wouldn't work. Faculty members may be influenced by the fact that Professor Scott is a longtime apoligist of Marxism and that Professor Webber is evidently planning to publish a monograph entitled «Why we need to outlaw trade unions and abolish corporate taxes».

Another idea might be to have students decide which view should be deemed to be correct. The difficulty with this, however, is that this may simply result in a popularity contest, and Professor Scott's well-known reputation as an easy marker might give him an unfair advantage.

There is also the possibility of allowing the issue to be decided in «the marketplace of ideas». This method of resolving disputes is typically favoured by those who prostrate themselves at the altar of freedom of expression. It is believed that all ideas, no matter how odious or stupid, should be allowed to be freely expressed and somehow the truth will prevail. Now I know little about marketplaces and even less about ideas, but I have doubts about this way of seeking truth. What is most successful in marketplaces is what panders to the lowest common denominator, and accordingly it is what is base and vulgar which succeeds. We should look elsewhere for a solution.

I myself see some merit in having Professors Scott and Webber settle their differences by having a duel. «The age of chivalry is gone», lamented a rueful Edmund Blake over two hundred years ago, «that of sophister, economists, and calculators has succeeded». What better way to begin to restore some of the splendour of the age of chivalry than an old-fashioned duel? Tickets to the event could even be sold in support of some charitable cause. But alas, I suspect there will not be many who will join with me in encouraging a duel: the violence involved would probably be offensive to many, and the Law School would likely be left with one less faculty member.

Perhaps the best approach would be for the concerned parties to take advantage of their legal expertise and to sue each other. The case would touch on a wide variety of areas of the law and could provide good material for students of law. And at the end of the day a judge would decide what the right answer is. I think if Messrs. Scott and Webber are truly devoted to the teaching of the law they will do their bit to ensure that their students will be able to know the answer to an evidently difficult issue and will soon begin to litigate.

SKIT NITE NEEDS *YOU* !!!!

SKIT NITE is fast approaching. This year it will be held on Thursday March 12th and it is sure to be the event of the year.

While the night of SKIT NITE is one for laughs, the event is really our chance to help the less fortunate members of our community. Money is raised through the publication of a program book which is distributed on the night of SKIT NITE.

While in previous years most of the advertisements in the program book have been placed by the legal community, given the current economic situation this year the success of SKIT NITE depends on all of our generosity.

Whether it be personal donations, contributions from business, friends or family, or from stores and restaurants that you frequent go to, any donation will make a difference. Order forms and information are available at the LSA office.

There will be a prize for the person who brings in the most money.

Quid Novi is published weekly by students at the Faculty of Law of McGill University, 3644 Peel Street, Montreal, H3A 1W9. Production is made possible by support of the Dean's office and by direct funding from the students. Les opinions exprimées sont propres à l'auteur. Toute contribution n'est publiée qu'à la discrétion du comité de rédaction et doit indiquer l'auteur ou son origine.

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GREENSPACE: ENVIRONMENTAL ECONOMICS

By Christopher Sherrin, LLB III

It is not uncommon in these troubled times to hear people and politicians (terms which on occasion may be mutually exclusive) saying that we can no longer afford to concern ourselves with «luxuries» like the environment. That's for the good times, they declare, when we're building cars, constructing houses, and selling millions of Ronco combination plum-pitters and yogurt-squirters. I must say that I don't always understand this argument. To peg the environmental movement as purely a «luxury» is surely to misunderstand much of what it advocates.

I do not deny for one minute that environmentalists' demands for a fundamental restructuring of the economy and its accompanying value system will entail significant costs in the short-run. But is it not better to incur them now rather than later after we have let the consumer ethic destroy the resource base upon which we depend? One must realize that increases in GNP that don't reflect costs to the environment aren't really improvements in any long-term sense; they simply represent sacrifices that are deferred until the future. Surely any economist who deplores rising government deficits can sympathize with the «ecofreaks» who cry out for this process to end. Of course, to know what we should do and to know how to do it are two different things. It is undeniable that there exists a great deal of uncertainty right now both as to the causes of environmental degradation and as to its solutions (after all, we can't just stop producing). But that doesn't mean that we shouldn't act upon the knowledge that we currently do have. And it also doesn't mean that we shouldn't carefully scrutinize all new projects to ensure that they don't contribute to the further despoliation of the world in which we live. The catch phrase here, of course, is «sustainable development». It is, admittedly, a rather vague phrase that seems to have about as many meanings as adherents, but the basic idea is the same: don't use more than you've got or can replace. It sounds like something my mother would tell me; but, then again, she was usually right (as she would also tell me). This may not be a realistic goal in the short-term, but surely it is something to aim for.

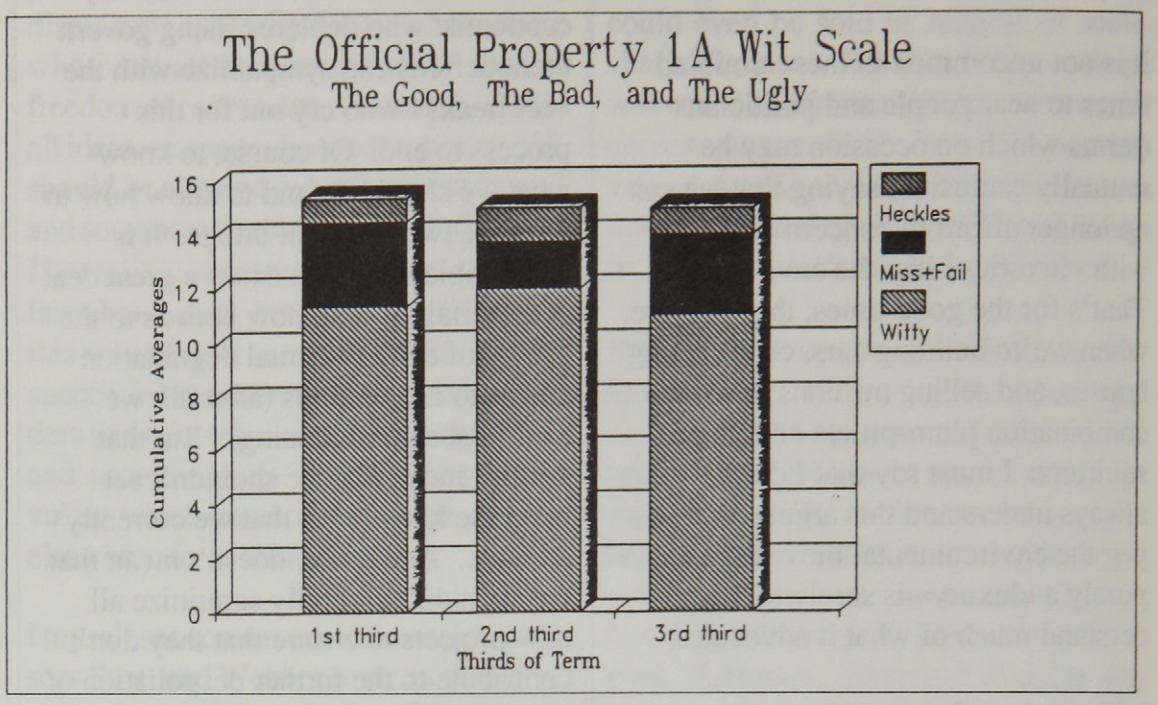
Even if people accept the logic of sustainable development, though, they still don't want to be the ones who have to suffer in the short-run. I don't blame them. Thankfully, the environmental movement also offers some more immediate assistance. Recycling has become quite a fad these days, and that's a great thing. But it does often mean that one tends to forget the other two «R's» in the eco-equation: reduce and reuse. Both of these can be great money-savers on a small-scale, Writing on the back of paper and reusing envelopes can reduce your stationary costs dramatically. Buying in bulk (and thus avoiding excess packaging) is almost always cheaper than buying brand names. Putting on a sweater and turning down the heat a couple of degrees will result in a significant reduction in your hydro bill. There are all sorts of ways to make do with less with basically no reduction in comfort. This is no panacea for people who are out of work, but it will help them cut expenses and ease their pain. At the same time, this will also help everyone else save for an uncertain future (or for a trip to the Bahamas).

I do not purport to know the solutions to all our economic ills, or even to almost any of them. But I do believe that the environmental movement is getting a bum-rap when it is seen as nothing but an expensive luxury. The real luxury is fooling ourselves into thinking that we can keep on living beyond our means. It's not just our children who are going to have to pay the price any more.

THE PITS **by Arnold Bornstein**

ON THE DEVELOPMENT OF

By the LLB I class



Although relatively small compared to its civil-law counterpart, the first-year LLB class is quite a diverse group of students with varied interests, all heading in different directions. After any given class the call of the library, the pool table, the computer room, Thompson house, or home to bed triggers a virtual student diaspora. With so much calling going on, it is almost inevitable that we should be confused: we type up essays, sleep and read in the library; read, sleep and eat at the pool table; sleep, read and type up essays in the computer room, play pool, read, sleep and eat at Thompson house, and perform quite a combination of the above at home in bed. Prima facie (notice latin indoctrination already taking effect) we would seem to be a resourceful bunch, able to perform in any environment.

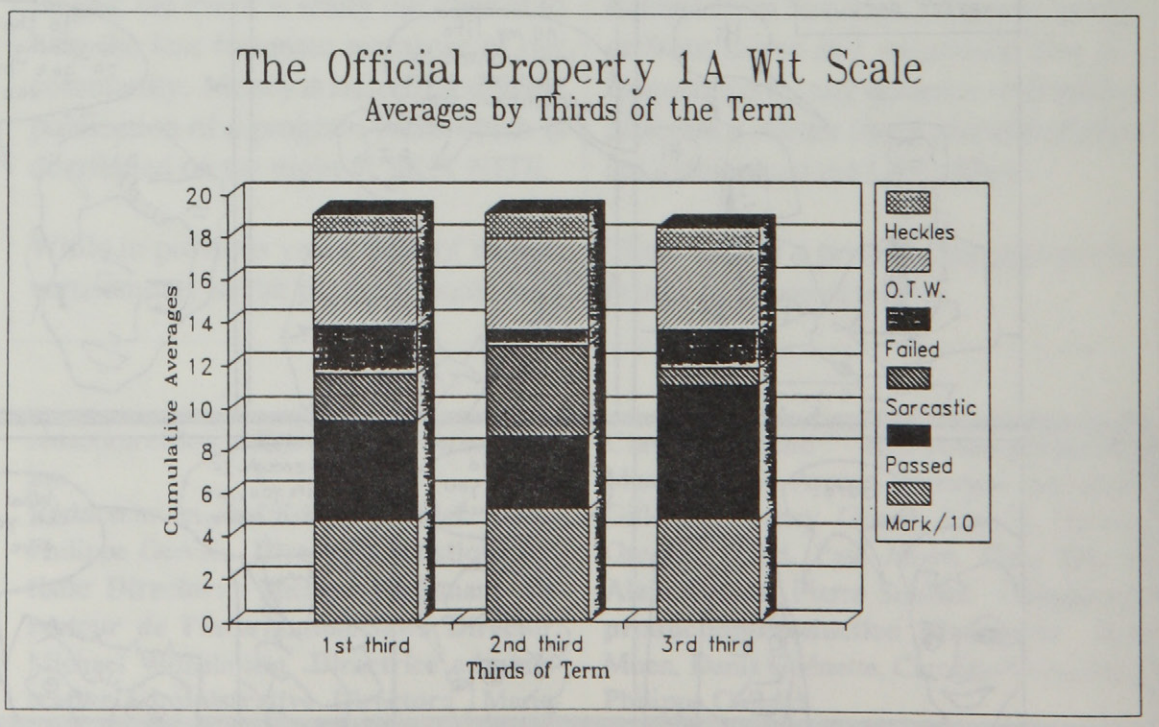
About the only extracurricular — or perhaps intercurricular — activity that all the sudents do together is the age-old game of rate the prof. Some psychologist actually earn Phd's studying th phenomenon of people's attraction to such group activities. They contend that humans obtain perverse pleasure out of expending more energy on what they shouldn't be doing that doing what they have chosen, applied to, wrote exams for, and then paid thousands of dollars to do. Other psychlolgists (obviously not on speaking terms with the first group of psychologists) earn their doctorates by spending years in classrooms conducting studies of what makes some professors more interesting than others — a scientific game of «rate the prof».

This is not a scientific study of humour. In fact, this is not even a study. We aren't interested in who what where when how or why. We're just showing that the first group of psychologists was right. They say that it is only natural to rate your professors. We only managed to get organized about it.

A word of caution to those who may decide to undertake this task in the future. Be careful about showing your professor the results of your hard work. We did it one night during a tutorial dinner. It can make the professor terribly self-conscious about her lectures, and perhaps foster a slight touch of paranoia towards the students. That presents future difficulties. The evaluation process is forced to go further «underground» for fear that when the evaluator is uncoverd, the evaluator becomes evaluated. It is quite difficult to mark your professor's performance objectively while she is scoring it at the same time for you, in anticipation of and in collaboration with your evaluation: "No that wasn't a sarcastic comment!"

What poses even more of a conundrum is when the prof starts making suggestions for improvements to the scale. How can you maintain objectively with suggestions such as "You don't have failed heckles on the scale do you?" Who is supposed to be marking whom anyways? If we were to follow her suggestions, we would have effectively given up the fun resulting from the illicit nature of the scale of adopting legitimacy.

We have tallied Professor J. Glenn's witticisms into 5 categories: passed jokes, failed jokes, missed jokes, sarcastic comments, and off the wall comments. Missed jokes need an explanation as they seem to be a Profesoor Glenn speciality. These are a result of, to paraphrase from one of her many ventures into the anecdotal realm for which yet another tally was considered, jokes that she makes



THE PROPERTY 1A WIT SCALE

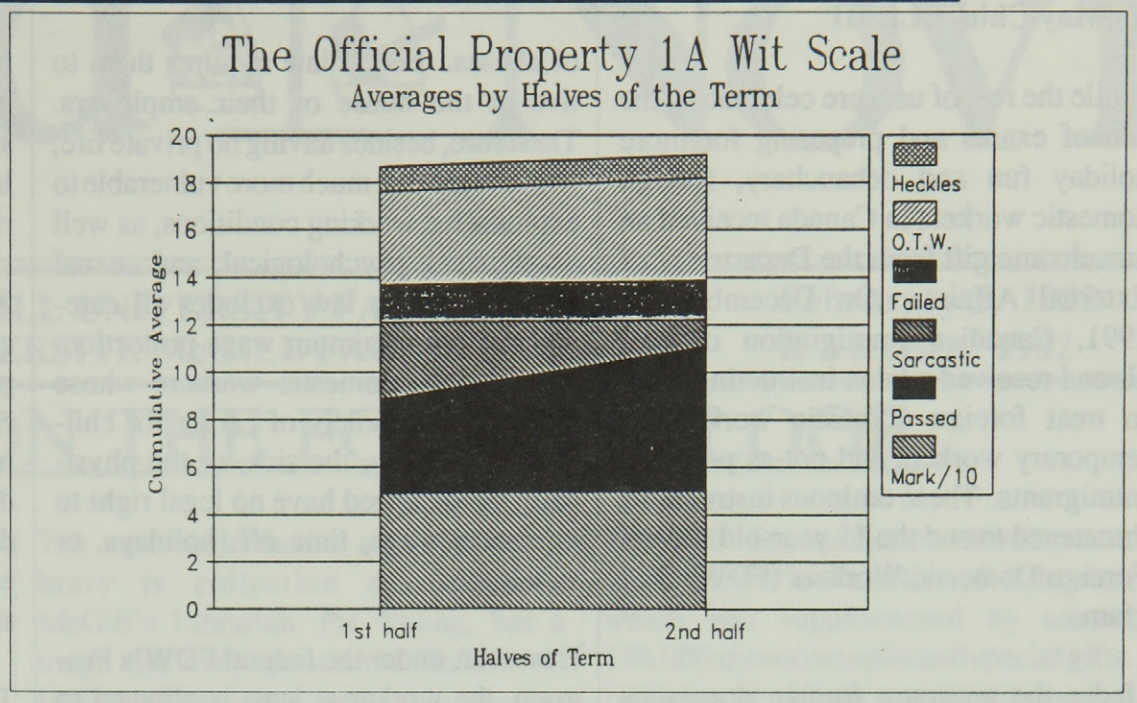
that she is not confident about their funniness or appropriateness and whose volume therefore tends to fade out into nothingness after it makes a brief visit to the first two rows of the classroom. The marker hears the reaction from the front of the class, and admitting defeat (and perhaps jealousy towards those that probably heard the best unedited comments) marks down a missed joke.

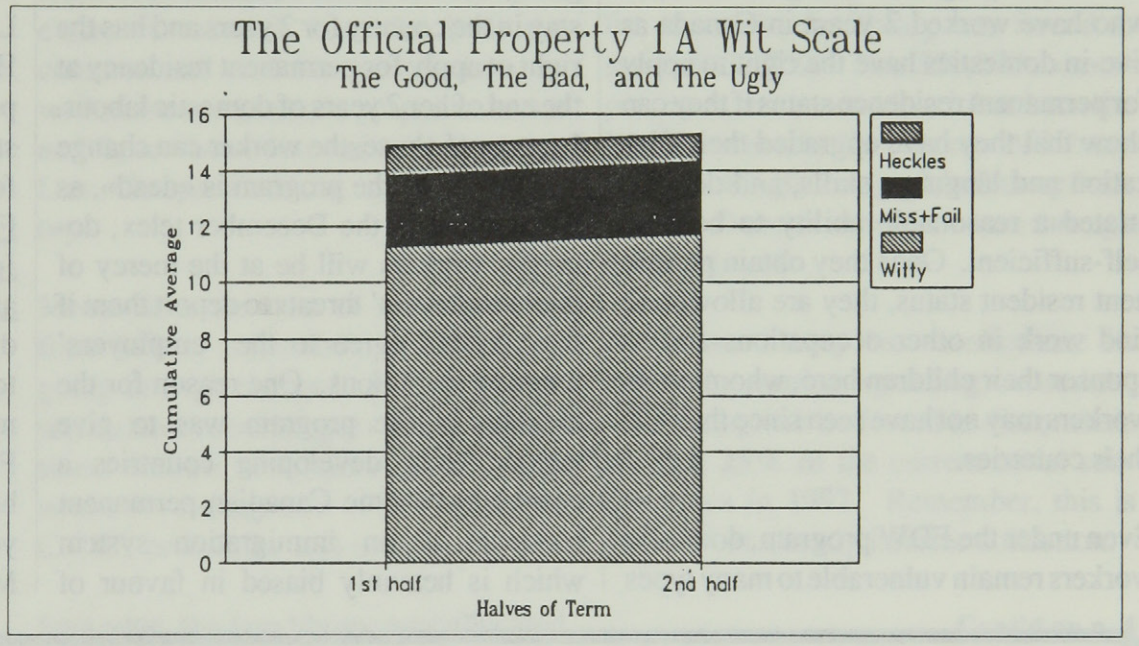
Another tabulated occurrence are heckles which represent a class-participation coefficient. Included in this category are heckles (oddly enough), dumb comments, death-rattle coughs, guffaws, or anything else class-generated that breaks up the class. These tend however to typically emanate from one area of the classroom for unexplained reasons...

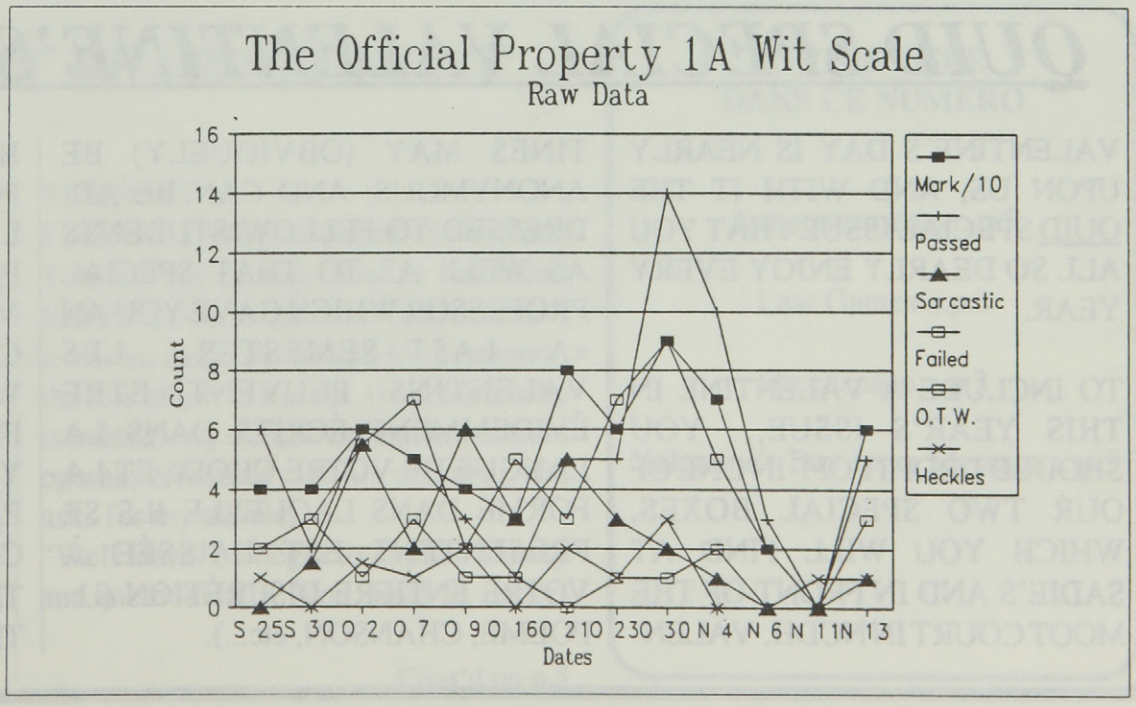
The final daily duty of a scorer is to assign a subjective daily wit score out of 10 for the day. This attempts to provide a good subjective baseline against which these objective measures can be compared — a good idea when you are creating an avowedly unscientific scale.

We hope that you appreciate this scale and the efforts of the markers who had to cope with problems such as differentiating between passed jokes and off the wall comments or sarcastic comments and failed jokes. These difficulties were so stressful that on October 28th, one marker broke down and crazedly scored 23 consecutive failed jokes (the usually average being 2-3 per class) before spewing out on the tally sheet a stream-of-consciousness monologue that briefly touched upon and related Professor Glenn's good mood, Duran Duran songs, Monthy Python routines, and lemon curry. As a result of this, we no longer have data for October 28th, and one marker has been put on strict probation, retaining a preference for the «fail» column on the tally sheet.

As for the graphs. They don't make any sense to us. Make what you want out of them if they don't make sense to you. After all, they weren't supposed to be scientific.







GOOD ENOUGH TO WORK, GOOD ENOUGH TO STAY!

By May Chiu, LLB III

While the rest of us were celebrating the end of exams and preparing for more holiday fun and debauchery, foreign domestic workers in Canada received an unwelcome gift from the Department of External Affairs. On December 19, 1991, Canadian immigration officers abroad received a telex instructing them to treat foreign domestic workers as temporary workers and not as potential immigrants. These ominous instructions threatened to end the 11 year-old federal Foreign Domestic Workers (FDW) Program.

Under the program, foreign domestics who have worked 2 years in Canada as live-in domestics have the right to apply for permanent residence status if they can show that they have upgraded their education and language skills, and demonstrated a reasonable ability to become self-sufficient. Once they obtain permanent resident status, they are allowed to find work in other occupations and to sponsor their children here, whom many workers may not have seen since they left their countries.

Even under the FDW program, domestic workers remain vulnerable to many types of abuses. Fedral law requires them to live at the house of their employers. Therefore, besides having no private life, workers are that much more vulnerable to exploitative working conditions, as well as physical, psychological, and sexual abuse. Quebec law excludes all caregivers from minimum wage protection. As a result, domestic workers whose work consists solely of caring for children, the eldery, the sick, or the physically handicapped have no legal right to minimum wage, time off, holidays, or sick leave.

However, under the federal FDW's Program, the worker at least is allowed to stay in the country for 2 years and has the right ot apply for permanent residency at the end of her 2 years of domestic labour. In cases of abuse, the worker can change employers. If the program is «dead», as was written in the December telex, domestic workers will be at the mercy of their employers' threats to deport them if they do not agree to the employers' working conditions. One reason for the creation of the program was to give women from developing countries a chance to become Canadian permanent residents in an immigration system which is heavinly biased in favour of male professionals. Removal of the program ensures that there wll always be a supply of cheap, temporary female labour without obligations to respect the rights of these women.

Foreign domestic workers cool for us, clean up our mess, take care of our elderly parents and sick family members, and raise our children. After having given so much of themselves to serve us, they deserve the same basic rights and freedoms as any of us. If they are good enough to work, they are good enough to stay!

The McGill caucus of Women and the Law, in conjunction with the Montreal Household Workers' Association, is participating in country-wide demonstrations to improve the conditions of foreign domestic workers on Sunday, February 2, 1992. We will meet at the St. Joseph exit of the Laurier Metro at 11:00 am to go to the Association, where the demonstration will begin. Bring friends to support the workers, as well as noisemakers such as pots, pans and brooms! For more information, call May or Barbara at 272-0446. We also have postcards you can pick up at Sadies' to send to the Minister of Immigration.

QUID SPECIAL VALENTINE'S DAY ISSUE

VALENTINE'S DAY IS NEARLY UPON US, AND WITH IT THE QUID SPECIAL ISSUE THAT YOU ALL SO DEARLY ENJOY EVERY YEAR.

TO INCLUDE A VALENTINE IN THIS YEAR'S ISSUE, YOU SHOULD DROP IT OFF IN ONE OF OUR TWO SPECIAL BOXES, WHICH YOU WILL FIND AT SADIE'S AND IN FRONT OF THE MOOT COURT IN NCDH. VALENTINES MAY (OBVIOUSLY) BE ANONYMOUS, AND CAN BE ADDRESSED TO FELLOW STUDENTS AS WELL AS TO THAT SPECIAL PROFESSOR WHICH GAVE YOU AN «A» LAST SEMESTER. LES VALENTINS PEUVENT ETRE ÉVIDEMMENT ÉCRITS DANS LA LANGUE DE VOTRE CHOIX, ET LA FORME DANS LAQUELLE ILS SE PRÉSENTENT EST LAISSÉE À VOTRE ENTIERE DISCRÉTION (i.e. POEME, CHANSON, etc...).

HOWEVER, TO AVOID DISAPPOINTING ANYONE, WE WOULD LIKE TO ASK YOU ALL TO PLEASE REFRAIN FROM SUBMITTING ANY OFFENSIVE, CRUDE OR VULGAR MESSAGES, WHICH WOULD JUST RUIN THE FUN FOR EVERYONE. LAST YEAR'S ISSUE CONTAINED 12 PAGES OF VALENTINES. WE'RE COUNTING ON YOU TO CONTINUE THIS GRAND TRADITION THIS YEAR!